

**UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS**

BROADCAST MUSIC, INC.;)
UNIVERSAL-SONGS OF POLYGRAM)
INTERNATIONAL, INC.;)
SONY/ATV SONGS LLC d/b/a SONY/ATV)
TREE PUBLISHING; DYNATONE PUBLISHING)
COMPANY; RONDOR MUSIC)
INTERNATIONAL, INC. d/b/a IRVING MUSIC;)
JAMES WILLIAM BUFFETT a/k/a JIMMY)
BUFFETT, an individual d/b/a CORAL REEFER)
MUSIC; FOUR- TEENTH HOUR MUSIC INC.;)
SPRINGTIME MUSIC, INC.; EMI VIRGIN)
SONGS, INC. d/b/a EMI FULL NELSON MUSIC;)
FREDERICK S. BIENSTOCK and)
HAMMERSTEIN MUSIC & THEATRE)
COMPANY, INC., a Connecticut Partnership d/b/a)
EDWARD B.MARKS MUSIC COMPANY;)
DANDELION MUSIC CO., A Division of)
JAMIE MUSIC PUBLISHING CO.; PRONTO)
MUSIC, a division of COTILLION MUSIC, INC.;)
QUINON R. IVY d/b/a QUINVY MUSIC)
PUBLISHING CO.; WARNER-TAMERLANE)
PUBLISHING CORP.; JEFF TROTT d/b/a)
TROTTSKY MUSIC; SHERYL SUZANNE)
CROW d/b/a OLD CROW MUSIC; SONGS OF)
UNIVERSAL, INC.; LISA ANNE LOEB,)
an Individual d/b/a FURIOUS ROSE MUSIC;)
JUAN P. PATINO, an individual d/b/a)
JUAN PATINO MUSIC PUBLISHING,)

Plaintiffs,

v.

MARINA VIEW CORPORATION d/b/a)
SKYLINE BAR & GRILL,)
GRIMOALDO A. RUSCITO,)
ANTONIO C. RUSCITO and)
ANTHONY RUSCITO, each)
individually,)

Defendants.

Civil Action No.: 05 11845 RCL

JOINT STATEMENT PURSUANT TO LOCAL RULE 16.1(D)

The parties submit the following statement pursuant to L.R. 16.1(D).

I. Summary of Positions

Plaintiffs state that according to the evidence of an independent investigator the musical works identified in the Complaint were publicly performed on the premises of the Skyline Bar & Grill on the dates specified in the Complaint. Plaintiffs further state that inasmuch as the defendants have no license for the performance of such musical works, the performance constitutes infringement of the exclusive performance right given to the copyright owners under Section 106(4) of the Copyright Act, 17 U.S.C. 106(4).

Defendants state that if there were any public performances on the premises as alleged in the Complaint, Defendants had a valid license to use said works. Defendants more specifically rely on the defenses contained in their Answer to the Complaint.

II. Proposed Discovery Plan

The parties will make their initial disclosures under FRCP 26(a)(1) no later than fourteen (14) days following their Rule 16 conference with the Court.

The parties believe that phased discovery is probably not necessary in this matter as the factual issues in the case are not complex, and combining discovery on liability and damages will be more efficient than phased discovery.

Based on the information available to them at present, the parties anticipate that each of them will take no more than three depositions, make at most two sets of document requests, and propound at most 25 interrogatories and 25 requests for admissions. However, the parties agree that these limits should be considered flexible so as to permit additional discovery should issues

arise that make it necessary.

As of this date, the parties anticipate no expert testimony or discovery.

On the basis of the foregoing assumptions, the parties propose that discovery close by August 30, 2006.

III. Proposed Schedule for Filing of Motions

The parties propose the following schedule. All dates are outside dates by which the motions described, with initial supporting briefs, shall be filed.

March 31, 2006	All motions pursuant to FRCP Rules 12, 19 & 20
April 30, 2006	All motions pursuant to FRCP Rule 15
October 31, 2006	Dispositive motions pursuant to FRCP Rule 56
_____	Status conference
_____	Final pretrial conference

IV. Certification

The parties' certifications under Local Rule 16.1(D)(3) will be filed with the Court no later than the time of the conference.

V. Consideration of Trial by Magistrate Judge

The parties do not at this time consent to a jury trial by a Magistrate Judge.

Date: January 27, 2006

Respectfully submitted:

BROADCAST MUSIC, INC., et al,
Plaintiffs,

By their attorneys,

/s/ Amy C. Mainelli
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MARINA VIEW CORPORATION d/b/a
SKYLINE BAR & GRILL,
GRIMOALDO A. RUSCITO,
ANTONIO C. RUSCITO and
ANTHONY RUSCITO,
By their attorney,

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